

WHAT LAWS PROTECT BALD EAGLES?

Bald eagles are protected by both state and federal law. The federal laws are the [Bald and Golden Eagle Protection Act](#), the [Migratory Bird Treaty Act](#), and the [Endangered Species Act](#). These laws primarily address nest tree protection and protection from harassment. Federal laws and regulations come into play when a federal permit is required (such as a dock permit from the Army Corps of Engineers), or when a federal crime, such as harm to an individual eagle or nest, is suspected.

State law focuses on protection of nesting and roosting habitat. The state law is the Bald Eagle Protection Act, [RCW 77.12.655](#). It was passed by the Washington State Legislature in 1984. This law requires the establishment of rules defining buffer zones around bald eagle nest and roost sites. The law states that the rules shall take into account the need for variation of the extent of the zone from case to case. In 1986, the Bald Eagle Protection Rules, [WAC 232-12-292](#), were established by the Washington State Wildlife Commission. The primary focus of the Bald Eagle Protection Rules is to protect habitat via habitat management plans.

BALD EAGLE PLAN FREQUENTLY ASKED QUESTIONS

What is a Bald Eagle Management Plan?

A Bald Eagle Management Plan (BEMP) is a habitat protection agreement between Washington State Department of Fish and Wildlife (WDFW) and the landowner ensuring minimal impact on bald eagles and reasonable land use for the owner.

When people apply for timber harvest permits, building permits, or other permits needed to develop land, the permitting agency (Department of Natural Resources [DNR] for timber harvest and clearing permits; county or city permit center for clearing and building permits) reviews the database of bald eagle nest and communal roost locations. If the activity is within ½ mile of an eagle nest or within ¼ mile of an eagle roost (discussed below), the permitting agency notifies WDFW, who will work with the landowner to develop a Bald Eagle Management Plan (see [WAC 232-12-292](#), section 4.4). This plan will not prevent the landowner from having reasonable use of the property, but it will ensure that development will have the least impact possible on the eagles and their habitat. There are no specific requirements established by the enabling language of the rule, but to ensure consistency across landowners, WDFW has established basic guidelines. WDFW has described the scientific basis for bald eagle site management in the [Priority Habitat & Species Management Recommendations for the Bald Eagle](#). Management Guidelines are used by WDFW biologists in developing bald eagle management plans and ensure that fair and even treatment is extended to all landowners. The bald eagle management plan guidelines have changed significantly since the bald eagle management planning process was begun in 1986. These changes reflect the increasing population of eagles, the apparent increasing tolerance of at least some eagle pairs, and WDFW's interest in accommodating landowner goals and reducing landowner burdens while minimizing impacts on critical eagle habitat. The guidelines discussed below were developed in December, 2001.

Please be aware that activity on federal land, or involving a permit from a federal agency such as the Army Corps of Engineers, requires approval from the U.S. Fish & Wildlife Service. Contact your federal permit reviewer for guidance.

What is a Standard Bald Eagle Plan? What is a County Short Plan?

The “standard bald eagle plan” is also known as the “county short plan”. It can be used for activities in Bald Eagle management Zone 2 [[link to map](#)]. The following basic conditions are applied:

1. Retain all known perch trees and all conifers greater than or equal to 24 inches diameter at breast height (24" dbh, measured at 4 ½ ft above the ground).
2. Retain all cottonwoods greater than or equal to 20" dbh, in counties where cottonwood nests occur.
3. Retain at least 50% of pre-clearing or pre-construction conifer stand with diameter distributions representative of the original stand (>6 feet tall).
4. Windowing and low limbing of trees is acceptable provided no more than 30% of the live crown is removed. Topping of trees is not allowed.

The conditions listed above are pre-approved by WDFW for activities that do not require a DNR permit (forest practice application [[link to “Forest Practice Application”](#)]). The standard plan is available from many county and city permit desks for parcels and activities that meet the distance definitions. No site visit by WDFW is necessary in these cases.

If the standard conditions cannot be met for any reason, then a “site-specific” or “custom” plan can be used [[link to “Site Specific Bald Eagle Plan”](#)].

What is a Site-Specific or Custom Bald Eagle Management Plan?

A site-specific plan, also known as a custom plan, is a plan that is tailored to the individual conditions of a particular site (compare to the Standard bald eagle plan [[link](#)]).

A site-specific plan is required for activities that remove trees within Bald Eagle Management Zone 1 [[link to map](#)] (within 400 ft of an eagle nest). A site-specific plan may also be requested by any landowner who feels that the conditions of the Standard Short Plan cannot be met. A site-specific plan is also required for any forest practice application [[link](#)] that is within ½ mile of an eagle nest (but see "No Conditions Plan", below). A site-specific plan is also required for any activity within ¼ mile of a bald eagle communal roost.

There is no cost to the site-specific plan, but it is more time consuming to obtain. Typically, a site-specific plan can be obtained in 2-6 weeks, depending on the complexity. Landowners may wish to hire a qualified consultant to prepare a bald eagle management plan for WDFW approval. While this is not necessary in most cases, it can help save time by ensuring that all the necessary documents are complete. To request a site-specific bald eagle management plan, provide the following information to the WDFW [bald eagle biologist](#) for your area:

1. Landowner name, mailing address, telephone number, and email address
2. Requestor's name, mailing address, telephone number, and email address (if different from above)
3. County in which the activity will occur
4. Parcel number
5. Site address of parcel (if available)

6. Parcel map (available from county) or Forest Practice Base Map (available from DNR) showing the parcel/activity area and the Township, Range, Section, and Quarter Section
7. A site map showing the activity:
 - a. Forest Practice Activities: the timber harvest boundary and buffer boundaries must be marked, with the location of the eagle nest shown.
 - b. Subdivisions and short plats: include the plat map and show the location of the eagle nest, and the location of currently forested areas.
 - c. Building Permits (and related permits, like clearing and grading and septic): show the
 - i. location of the eagle nest, and the locations of conifer trees greater than or equal to 24" dbh that will be affected by the activity.
 - ii. Also show the locations of conifer trees greater than or equal to 24" dbh that will be protected and retained.
 - iii. Show the proposed locations of house, driveway, garage, septic, and any other clearing activity

Note: if you do not know the location of the eagle nest, contact the WDFW bald eagle biologist for your area.

Once the biologist has received the above information, you may be contacted to arrange a site visit. A site visit may be required for activities within 400 ft of a nest site. A site visit may not be required for site-specific plans that amend the Standard Plan for sites over 400 ft from a nest site.

What is a "No Conditions" Bald Eagle Management Plan?

Forest Practice Rules (WAC [222-16-080](#) 6e) require a bald eagle management plan for activities within ½ mile of an eagle nest or ¼ mile of an eagle roost. However, in many cases WDFW does not require conditions, because the activity is not within the current Bald Eagle Management Zones [[link](#)]. In those cases, WDFW provides the landowner with a plan that explains why no conditions are needed.

What is a Forest Practices Application?

A Forest Practices Application (FPA) is the name of the permit that the Washington State DNR issues for activities that involve cutting trees or other activities that could involve impacts to the resources of the state, such as road-building. Forest Practice Rules (WAC 222-16-080 6e) require a bald eagle management plan for activities within ½ mile of an eagle nest or ¼ mile of an eagle roost. Contact DNR directly to find out if you need a FPA for your activity.

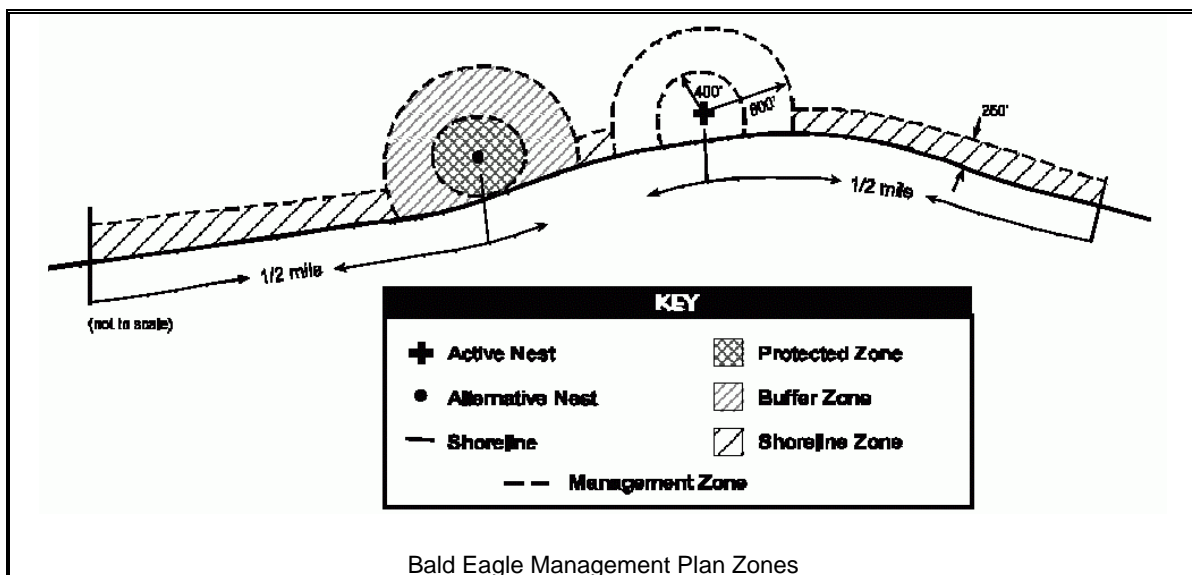
WAC 222-16-080 address is <http://apps.leg.wa.gov/WAC/default.aspx?cite=222-16-080>

DNR address is <http://www.dnr.wa.gov/base/dnrhome.html>

What is a Communal Roost Bald Eagle Management Plan?

Bald eagle communal night roosts are important winter habitat. Eagles use night roosts as protection from inclement weather and temperature extremes. Night roosts may also serve important social functions. Winter night roosts are generally associated with large, salmon-bearing rivers, although there are some associated with coastal foraging areas. Night roosts are usually on forested slopes, up to 5 miles from the foraging areas. The combination of topography and trees provides the microclimate that is important to roosting eagles. For the purpose of inclusion in the WDFW database of protected sites, a roost is defined as a tree or a group of trees in which at least 3 eagles roost for at least 2 nights and during more than one year. The definition refers to at least 3 eagles to differentiate the communal roost from a perch used by a territorial pair of eagles. Site-specific Bald Eagle Management Plans are required for activities within ¼ mile of communal night roosts. Activities within ¼ mile of eagle roosts are restricted in the winter, generally from Nov 1 to Feb 15, although this may be modified (shortened) for roosts with known activity periods that do not extend through the entire winter season. Leave tree buffers are also required, although the buffer distance varies with the conditions of the site. Timber harvest within communal night roosts is not permitted.

What Are Bald Eagle Management Zones?



Management Plan Zones are defined by distance from a bald eagle active nest tree.

- Within 400' (Requires a Site-Specific BEMP from WDFW)
- From 400' to 800' (Eligible for a Standard 1-Page WDFW BEMP)
- Shoreline Zone: within 250 ft of shoreline if also within ½ mile of a nest. (Eligible for a Standard 1-Page WDFW BEMP)

How Do I Find Out What Kind of Plan I Need?

Your county planning or permit desk can tell you whether you need a bald eagle management plan, and if you can use the standard (short) plan. The Department of Natural Resources will direct you to the WDFW bald eagle biologist for your area. In all cases, you can request a site-specific bald eagle plan from the WDFW [bald eagle biologist](#) for your area.

How Long Are Eagle Management Plans Good For?

Each year bald eagles return to the same area, known as a breeding territory. In many cases, there are several nests per territory, only one of which will be occupied at a given time. Territories are generally occupied year after year, although it is not unusual for a territory to be unoccupied for one or several years at a time. In some cases, nests that have not been used for many years become reoccupied, often by a new pair of eagles that takes over part of another pair's territory. The most extreme example known from Washington was a nest that was unoccupied for 12 years before a new pair moved in to take over the north part of the resident pair's territory. Examples such as these demonstrate why it is important to maintain large trees capable of supporting nests, in order to provide for the recovery of the species. A nest may blow or fall out of a tree, or even be dismantled by energetic chicks, but as long as the tree is capable of supporting a new nest (e.g., contains canopy and/or supporting limbs that can hold a nest), the tree is protected as a nest site. Individual nest sites within a territory are removed from the list of protected sites only if the tree falls naturally or limbs break in such a way as to prevent new nest construction.

A Bald Eagle Management Plan constitutes an agreement by the landowner to protect the eagle habitat on their property. The plan remains in effect indefinitely. However, a change of ownership or a request for a new activity may lead to a new bald eagle plan. If a landowner believes that the site is no longer capable of supporting bald eagles, the landowner can also request a review by WDFW to determine if the bald eagle plan is no longer needed. This is determined by reviewing the history of the site, as well as the physical state of the habitat. In general, WDFW uses a guideline of 5 consecutive years of absence throughout the whole territory (not just at a single nest site) to determine whether a site is truly "not active".

As of 1998, WDFW no longer conducts annual nest surveys. The last complete statewide survey was conducted in 2005. Statewide surveys and regional surveys will continue as survey priorities are set and funding is available, but consecutive surveys are no longer conducted. Therefore, documenting absence for a period of 5 years will become the responsibility of the landowner making the request.

Are There Timing Restrictions?

WDFW biologists met in Dec 2001 to discuss the bald eagle management plan provisions in light of the continuing success of bald eagle recovery. At that meeting it was determined that timing restrictions will no longer be required for building activities in the vicinity of bald eagle nests. This is in recognition of the overall success of the bald eagle population in Washington state, and of the goal of managing for the population as a whole rather than the year to year success of individual pairs. We have had opportunities to observe the effect of disturbance on some nests, generally where nests have not been known to WDFW before the disturbance, and in a few cases where disturbance has occurred in violation of a management plan. We have found that in certain cases nest failure occurred, but in other cases eagles have successfully fledged young in spite of disturbance. Eagles are long-lived birds that have strong fidelity to their nesting site, and will return to renest even after failure in a given year. Therefore, we now feel that it is justified to permit the potential disturbance created by building activities, although we still protect nest and perch trees and other aspects of bald eagle habitat.

However, if a federal permit is required (such as through the Army Corps of Engineers), then federal timing restrictions may apply. Contact the US Fish and Wildlife Service to find out if there are any required federal timing restrictions under your federal permit.

Even though timing restrictions are not now required by WDFW, the following information is provided to help you minimize disturbance when possible. Eagles are most sensitive to disturbance Feb 1 - April 15. They are establishing territories and beginning incubation at this

time. The chicks typically hatch in mid to late April. Once the chicks have hatched, the adults are less likely to abandon as a result of disturbance. The chicks are able to keep themselves warm and feed themselves by late April to early May, so are more easily able to survive periods when the adult is off the nest due to temporary disturbance. The young typically fledge (leave the nest) in mid July. At that time, just before fledging, they are vulnerable and can be frightened off the nest before they are able to fly. Therefore, we hope that landowners will take the following approximate schedule into account : Feb 1 - May 1, more sensitive; May 1-July 1, less sensitive; July 1-July 15, more sensitive; July 15 - Jan 31, least sensitive.

What About Hazard Trees?

A hazard tree is a tree that is unhealthy or unsound, and has a significant likelihood of falling (completely or in part) on a structure or otherwise create a safety hazard to structures or people. The hazard potential of a tree can be determined by a certified arborist. If an arborist determines that a tree is a hazard, it can be removed. Submit the hazard assessment to WDFW prior to cutting the danger tree.

OTHER BALD EAGLE FREQUENTLY ASKED QUESTIONS

Are Bald Eagles Still Listed as Endangered or Threatened?

Bald eagles are currently (2006) listed as "Threatened" under the Federal Endangered Species Act. Bald eagles have been federally listed as "Threatened" in Washington State since 1978. In 1995, the populations in other states that had been listed as "Endangered" were changed to the "Threatened" status. The status in Washington State did not change. Bald eagles were proposed for downlisting to Monitor (removed from the endangered species list) in 1999. The initial proposal was not finalized, but it was re-opened in June 2004. The delisting process is continuing as of August 2006. The process takes a long time because there are two prerequisites: 1) all states must have some form of habitat protection measures in place and 2) there must be a nationwide monitoring plan in place. The pilot year of the nationwide monitoring effort was 2005, and draft recommendations for [national management guidelines](#) were put forth for public comment in 2006. It is expected that the downlisting will occur late in 2006 or sometime in 2007. The federal downlisting to "Monitor" status will be followed immediately by state downlisting to "Sensitive" status.

The change in federal endangered species status will affect primarily federal permits, such as Army Corps of Engineers permits for activities within bodies of water. Bald eagles and their habitat will remain protected under the state Bald Eagle Protection Act, as well as the federal Bald and Golden Eagle Protection Act and the federal Migratory Bird Treaty Act.

What About Harassment of Eagles?

Federal and state law prohibit the deliberate harassment of eagles.. The relevant State law is [RCW 77.15.130](#) (regarding harm of protected wildlife). The relevant Federal laws are: [USC Title 16 Chapter 5A Subchapter II Section 668](#) (Bald and Golden Eagle Protection Rule, which primarily addresses physical possession of live or dead birds or nests or eggs), the Endangered Species Act ([USC Title 16 Chapter 35 Section 1538](#), which prohibits "take", which has been interpreted to include harassment), and the Migratory Bird Treaty Act ([USC Title 16 Chapter 7 Subchapter II Section 703](#)). If deliberate eagle harassment is suspected, please call [Washington State Patrol](#) and ask to have a wildlife enforcement officer dispatched.

How Can I Tell If There Is An Eagle Nest in My Area?

You can contact your local WDFW biologist to determine whether there is an eagle nest recorded in your area. Eagle nests are recorded when they are found during official surveys, but they are also recorded following tips from the general public, if they are confirmed by a WDFW biologist.

If there is a nest in your area, you can often find it by observing the eagles' behavior. Eagles carry sticks to nests. This can occur any time of year, but eagles are particularly active with nest-building Oct – Feb. If you see large (4-6 ft in diameter). Some nests cannot be seen from the ground at all, but others are fairly obvious. If a nest is actively being used, you are likely to see "whitewash" (droppings) beneath the tree. The whitewash is usually in very fine droplets like a fine dusting of snow, several to as many as 10 ft from the tree, in a circle all the way around, or just on one side.

Sometimes an abundance of sap oozing from a wound in the tree can be mistaken for whitewash, but the sap drops are larger and, of course, smell like tree sap (piney). You will also find prey remains below an active nest, even if there are no chicks present (adults frequently use nest trees as perch trees). Common prey remains that are diagnostic of eagles (rather than owls or hawks) are seagull and duck feathers, and fish jaws. In June and July, if there are chicks present, they usually make quite a bit of noise so the nest can often be found by following the sound of the begging chicks. eagles carrying sticks, notice and map where the birds fly to. Eagles also carry food to nest sites. This is not a definitive sign of a nest, as they may be carrying prey to a favorite perch tree, but if eagles habitually carry prey to a particular area, it is a good indication that a nest may be near by. This activity is most likely to occur April – June, when chicks in the nest are being fed.

Other habitual behavior, such as birds leaving and entering a stand of trees at similar times of day, and in a similar location, is also suggestive. Breeding eagles are present on breeding territories nearly all year, except for Aug – Sept when they usually head to Canada to feed on the first of the migrating salmon.

Therefore, if you habitually see a pair of birds Oct – Mar, then a single bird Mar – June (if incubating, one bird will always be in the nest out of sight) , then a pair and perhaps one or two juveniles in July, followed by no birds in Aug – Sept, you may be seeing the typical behavior of a pair with a nest nearby.

To find the actual nest tree, look for the largest or second largest tree in the stand. The nest will be in the top of the tree or as far down as 50 ft from the top. The nest will usually be close to the trunk and be very

What is the History of this Territory?

Bald eagles return to the same territory year after year. WDFW has been surveying bald eagle breeding activity since 1980. From 1980 to 1992, two aerial surveys were conducted each year, to determine occupancy (whether a pair attempted to lay eggs) and productivity (whether the attempt was successful). From 1993 – 1998 only the first (occupancy) survey was conducted. 1998 was the last year of the annual surveys. Since that time there have been statewide surveys in 2001 and 2005.

You can look at the known history of a territory if you know the "occurrence number" (territory number). The occurrence number is on your bald eagle plan, and also in the documentation that comes with the Priority Habitats and Species request (<http://wdfw.wa.gov/hab/release.htm>).